



***The Public Service Commission
State of South Carolina***

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April 18, 2006

Certified Mail
Return Receipt Requested

John J. Pringle, Jr., Esquire
Ellis Lawhorne & Sims, PA
P.O. Box 2285
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Jeffrey M. Nelson, Esquire
Office of Regulatory Staff
P.O. Box 11263
Columbia, SC 29211

Re: Application of TQC Communications Corp.
Commission Docket No. 2006-38-C

Dear Jack and Jeffrey:

Enclosed please find a proposed order in the above-captioned docket, which is being delivered to you pursuant to the requirements of 26 S.C. Code Ann. Regs. 103-865 (C). As parties of record in this TQC case, you have ten (10) days from your receipt of this proposed order to file exceptions, present briefs, and/or file written requests for oral argument to the Commission, if you should desire to do so. If none of these are received by me within 10 days of your receipt of the proposed order, I will request that the Commission issue its order in this case based upon the record of the formal proceeding and the proposed order.

Thank you in advance for your consideration in this matter.

Sincerely,

F. David Butler
Hearing Examiner

FDB/dd
cc: Joseph Melchers, Chief Legal Advisor

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2006-38-C - ORDER NO. 2006-
APRIL 18, 2006

IN RE: Application of TQC Communications Corp.) ORDER
for a Certificate of Public Convenience and) GRANTING
Necessity to Provide Interexchange) CERTIFICATE, AND
Telecommunications Services and for) APPROVING MODIFIED
Alternative Regulation) ALTERNATIVE
) REGULATION-
) PROPOSED ORDER OF
) THE HEARING
) EXAMINER

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of TQC Communications Corp. ("TQC" or the "Company") requesting a Certificate of Public Convenience and Necessity authorizing it to provide interexchange services within the State of South Carolina. The Company's Application was filed pursuant to Chapter 9 of Title 58 of the South Carolina Code, and the rules and regulations of the Commission. By its Application, TQC also requests modified alternative regulation of its business services offerings identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C as modified by Order No. 2001-997, and the waiver of certain Commission regulations.

The Commission's Docketing Department instructed TQC to publish, one time, a Notice of Filing and Hearing in newspapers of general circulation in the areas of the state affected by the Application. The purpose of the Notice of Filing and Hearing was to

inform interested parties of the Application of TQC and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. TQC complied with this instruction and provided the Commission with proof of publication of the Notice of Filing and Hearing.

A hearing was convened on April 10, 2006, at 10:00 a.m. in the offices of the Commission in Columbia, South Carolina, before David Butler, Hearing Examiner. TQC was represented by John J. Pringle, Jr., Esquire. The Office of Regulatory Staff (ORS) was represented by Jeffrey M. Nelson, Esquire. Prior to the presentation of testimony, it was announced that TQC and ORS had reached a settlement. The Settlement Agreement is attached hereto as Order Exhibit 1. (Both the Settlement Agreement and a Revised Tariff were entered into the record of the case as exhibits.)

Buddy Pack, Consultant to the Company, appeared and testified in support of the Application. Pack testified that he had full authority to testify on behalf of the Company. The record reveals that TQC is a corporation organized in the State of Florida and has registered to transact business in the State of South Carolina.

TQC's services will be offered twenty-four hours per day, seven days a week. Mr. Pack explained the Company's request for authority, and the record further reveals the Company's services, operations, and marketing procedures. TQC seeks authority to operate as a reseller of intrastate interexchange telecommunications services to the public on a statewide basis and to offer a full range of "1+" interexchange telecommunications services on a resale basis. Specifically, TQC seeks authority to provide MTS, out-WATS, in-WATS, and calling card services to both business and residential customers, in

addition to operator services. The Company requests authority to provide inmate services, although witness Pack states that the Company does not intend to offer such services at the present time. The Company does not intend to offer pre-paid debit card services.

Mr. Pack also discussed TQC's technical, financial, and managerial resources to provide the services for which it seeks authority to provide. Mr. Pack offered that TQC possesses sufficient financial resources to support its operations in South Carolina.

With regard to management and technical capabilities, the Company's Application and Mr. Pack's testimony both evidence that TQC's management team has extensive experience in both marketing and communications. Mr. Pack also testified that TQC will operate in accordance with Commission rules, regulations, guidelines, and Commission Orders.

Mr. Pack offered that approval of TQC's Application would serve the public interest by increasing the level of competition in South Carolina. Mr. Pack, on behalf of the Company, requests a waiver of 26 S.C. Code Ann. Regs. 103-610 and to be allowed to keep the Company's books at its headquarters in Florida. Further, the Company requests an exemption from record keeping policies that require maintenance of financial records in conformance with the Uniform System of Accounts (USOA). TQC maintains its books in accordance with Generally Accepted Accounting Principles (GAAP). In addition, the Company requests that it not be required to publish local exchange directories, and therefore requests waiver of 26 S.C. Code Ann. Regs. 103-631. Also, TQC requests that it not be required to file an Operating Area Map with the Commission, since it intends to offer its services through the geographic service areas of the incumbent local exchange

carriers in the State of South Carolina. Thus, the Company also requests a waiver of 26 S.C. Code Ann. Regs. 103-612.2.3.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. TQC is organized under the laws of the State of Florida as a corporation and is authorized to do business in the State of South Carolina by the Secretary of State.

2. TQC desires to operate as a reseller of interexchange telecommunications services in South Carolina.

3. We find that TQC possesses the managerial experience and capability to operate as a non-facilities based reseller of interexchange services in South Carolina.

4. We find, based on the financial records and balance sheets submitted, that TQC possesses sufficient financial resources to provide the services as described in its Application.

5. We find that the issuance of a Certificate of Public Convenience and Necessity to TQC to operate as a reseller of interexchange telecommunications services in South Carolina would be in the best interest of the citizens of South Carolina by increasing the level of competition in South Carolina, and by increasing consumer awareness of options and services available, thereby encouraging growth and success of competitive services.

6. TQC has no plans to maintain offices in South Carolina and requests a waiver of 26 S.C. Code Ann. Regs. 103-610. The Commission finds TQC's requested waiver reasonable and understands the difficulty presented to TQC should the waiver not be granted. Further, we find that a waiver of 26 S.C. Code Ann. Regs. 103-610 to be in the public interest. We also believe that exemption from the policies that would require the Company to keep its records under the USOA is reasonable. Additionally we find that waivers of 26 S.C. Code Ann. Regs. 103-631 and 103-612.2.3 are reasonable and in the public interest.

7. TQC has the managerial, technical, and financial resources to provide the services as described in its Application.

CONCLUSIONS OF LAW

1. The Commission concludes that TQC possesses the managerial, technical, and financial resources to provide the telecommunications services as described in its Application.

2. The Commission concludes that approval of TQC's Application to provide intrastate telecommunications services within South Carolina will serve the public interest by enhancing competition in the State of South Carolina by offering additional service offerings to South Carolina's consumers and by providing for efficient use of existing telecommunications resources.

3. The Commission concludes that the issuance of the authority to provide intrastate interexchange telecommunications services as requested by TQC and as set

forth in its Application, is in the best interests of the citizens of the State of South Carolina.

4. The Commission concludes that a Certificate of Public Convenience and Necessity should be granted to TQC to provide intrastate interexchange telecommunications services.

5. The Commission adopts a rate design for TQC for its resale of residential interexchange services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

6. TQC shall not adjust its residential rates below the approved maximum level without notice to the Commission and to the public. TQC shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for residential services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a

general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 2005).

7. The Commission concludes that TQC's intrastate interexchange business telecommunications services shall be regulated in accordance with the principles and procedures established for alternative regulation of business service offerings set out in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. The Commission has previously granted this "alternative regulation" to competitive intrastate interexchange carriers operating within South Carolina, and the Commission concludes that the competitive marketplace requires the Commission to allow this flexible regulation to those carriers which request it. Specifically, the Commission-approved alternative regulation allows business service offerings, including consumer card services and operator services, to be subject to a relaxed regulatory scheme identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. However, pursuant to Order No. 2001-997 (Docket No. 2000-407-C), this Commission has modified alternative regulation by the re-imposition of rate caps with regard to certain "operator-assisted calls" where a customer uses a local exchange carrier's calling card to complete calls from locations which have not selected that local exchange carrier as the toll provider. Order No. 2001-997, dated November 8, 2001, imposed a maximum cap of \$1.75 for operator surcharges for such calls, and a maximum cap of \$0.35 related to the flat per-minute rate associated with these calls. Under this relaxed regulatory scheme, tariff filings for business services shall be presumed valid upon filing. The Commission will have seven (7) days in which to institute an investigation of any tariff filing. If the

Commission institutes an investigation of a particular tariff filing within the seven days, the tariff filing will then be suspended until further Order of the Commission.

8. With regard to the provision of inmate calling services, the Company must also complete a PSP Application under Docket No. 1985-150-C, and have it approved by this Commission prior to offering such services. Should such approval occur, for intraLATA inmate toll calling, TQC shall not charge rates any greater than the rates charged by the local exchange carrier at the time a call is placed. For interLATA toll calls, TQC shall not charge rates greater than the rates charged by AT&T Communications-South Carolina. Additionally, automated collect calls shall only be completed with the affirmative acceptance by the called party. The Company shall not impose any property-imposed fee on calls originating from inmate/confinement facilities. For inmate calling services, call detail information submitted to the local exchange company for billing purposes must include the telephone number associated with the Pay Telephone Access Line as assigned by the local exchange company.

For intrastate 0+ operator-assisted and calling card calls originated from pay telephones (if authority is granted) outside confinement facilities and aggregator locations, TQC may not impose an operator service charge greater than the intrastate charges then currently approved for AT&T. For the usage portion of the call, TQC may not charge more than the intrastate rates charged by AT&T or BellSouth at the time the call is completed.

TQC should be allowed to incorporate in its tariff a surcharge (property imposed fee) on operator-assisted and calling card calls not to exceed \$1.00 for calls originated

from payphone (if authority is granted and excluding pay telephones associated with inmate calling service) and from aggregator locations only if the property owner has not added a surcharge already. That is, TQC may not impose an additional surcharge to calls originating from payphones (if approval is granted) and from aggregator locations if a property owner has already imposed such a surcharge. If such a surcharge is applied on behalf of a property owner, the Company should pay the surcharge in its entirety to the property owner. Further, if the surcharge is applied, the user should be notified of the imposition of the surcharge. This notification should be included in the information pieces identifying the Company as the operator service provider.

TQC is required to provide information pieces to pay telephone service providers (if authority is granted) or property owners identifying the Company as the provider of operator service for authorized calls originated from the location. TQC is required to brand all calls identifying itself as the carrier. The information pieces shall be consistent with the format approved by the Commission in Order No. 93-811, issued in Docket No. 92-557-C. For the provision of operator services, TQC shall comply with the Operator Service Provider Guidelines approved in Order No. 93-534, issued in Docket No. 93-026-C.

9. We conclude that TQC's request for waiver of 26 S.C. Code Ann. Regs. 103-610 should be granted as strict compliance with the regulation would cause undue hardship on TQC. We also grant exemption from the policies requiring the use of USOA. In addition, we grant waivers of 26 S.C. Code Ann. Regs. 103-631 which requires

publication of a local telephone directory and 26 S.C. Code Ann. Regs. 103-612.2.3 which require the filing of operating area maps.

10. The Settlement Agreement between the parties should be approved. It is attached hereto as Order Exhibit No. 1.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT:

1. A Certificate of Public Convenience and Necessity should be granted to TQC to provide intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), Foreign Exchange Service, Private Line Service, or any other services authorized for resale by tariffs of carriers approved by the Commission,.

2. TQC's rate designs for its products shall comport to those designs described in Conclusions of Law above.

3. If it has not already done so by the date of issuance of this Order, TQC shall file its revised tariff and an accompanying price list for any applicable rates within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations, as well as the provisions of the Settlement Agreement and the revised tariffs filed as a hearing exhibit.

4. TQC is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers and facilities-based interexchange carriers should be treated similarly.

5. With regard to the TQC's resale of service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

6. TQC shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If TQC changes underlying carriers, it shall notify the Commission in writing.

7. With regard to the origination and termination of toll calls within the same LATA, TQC shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dialing parity rules established by the FCC pursuant to the Telecommunications Act of 1996 (See, 47 CFR 51.209). Specifically, TQC shall comply with the imputation standard as adopted by Order No. 93-462 and more fully described in paragraph 4 of the Stipulation and Appendix B approved by Order No. 93-462.

8. TQC shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, TQC shall keep financial records on an intrastate basis for South Carolina to comply with the annual report and gross receipts filings. The proper form for filing annual financial information can be found at the Commission's website at www.psc.sc.gov/reference/forms.asp. The title of this form is "Telecommunications

Company Annual Report.” This form shall be utilized by the Company to file annual financial information with the Commission and ORS and shall be filed no later than **April 1st**.

Commission gross receipts forms are due to be filed with the Commission and ORS no later than **August 31st** of each year. The proper form for filing gross receipts information can be found at the ORS website at <http://www.regulatorystaff.sc.gov/>, and the appropriate form is entitled “Gross Receipts Form.”

9. TQC shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, TQC shall provide to the Commission and ORS in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. TQC shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The “Authorized Utility Representative Information” form can be found at the Commission’s website at www.psc.sc.gov/reference/forms.asp; this form shall be utilized for the provision of this information to the Commission and ORS. Further, TQC shall promptly notify the Commission and ORS in writing if the representatives are replaced.

10. TQC is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

11. At the hearing, TQC requested a waiver of 26 Code Ann. Regs. 103-610 (Supp. 2005), which requires that records required by the Commission's Rules and Regulations be maintained in South Carolina. The record reveals that TQC's principal headquarters will be located outside of South Carolina. TQC requests permission to maintain its books and records at its headquarters in its home office. The Commission finds TQC's requested waiver reasonable and understands the difficulty presented to TQC should the waiver not be granted. The Commission therefore grants the requested waiver that TQC be allowed to maintain its books and records at its principal headquarters. However, TQC shall make available its books and records at all reasonable times upon request by the Office of Regulatory Staff, and TQC shall promptly notify the Commission and ORS if the location of its books and records changes.

12. TQC also requests that it be exempt from record keeping policies that require a carrier to maintain its financial records in conformance with the Uniform System of Accounts (USOA). The USOA was developed by the FCC as a means of regulating telecommunications companies subject to rate base regulation. As a competitive carrier, TQC maintains its book of accounts in accordance with Generally Accepted Accounting Principles (GAAP). GAAP is used extensively by interexchange carriers. Accordingly, TQC requests an exemption from the USOA requirements and the applicable regulation. We grant the TQC's request for the reasons stated above. We also grant the TQC's request to waive 26 S.C. Code Ann. Regs. 103-631 and 103-612.2.3, because of the unusual difficulty that TQC would have in complying with these regulations.

13. Each telecommunications company certified in South Carolina is required to file annually the Intrastate Universal Service Fund (USF) worksheet. This worksheet provides ORS information required to determine each telecommunications company's liability to the State USF fund. The Intrastate USF worksheet is due to be filed annually no later than **August 15th** with the Commission and ORS.

14. The Settlement Agreement between the parties is hereby approved.

15. This Order shall remain in full force and effect until further notice by this Commission.

BY ORDER OF THE COMMISSION:

Randy Mitchell, Chairman

ATTEST:

G. O'Neal Hamilton, Vice-Chairman

(SEAL)